

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

PATRICK ADAMS,

Plaintiff,

vs.

BURKBILE, et al.,

Defendants.

CV-21-21-GF-BMM-JTJ

ORDER

United States Magistrate Judge John Johnston issued Findings and Recommendations in this matter on May 18, 2021, recommending that this Court deny Adams's motion for a preliminary injunction or temporary restraining order. (Doc. 7). No party filed an objection to the Findings and Recommendations. The Court has reviewed Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston's Findings and Recommendations and adopts them in full.

Defendants filed Suggestions of Death (Docs. 14, 15) in June 2021, notifying the Court of Adams's passing pursuant to Fed. R. Civ. P. 25(a)(3). In the Suggestions of Death, Defendants indicate that they have notified Adams's wife of

their Rule 25(a) filing. *Id.* Rule 25(a) of the Federal Rules of Civil Procedure allots 90 days after service of a statement noting death for a motion for substitution to be made “by any party or by the decedent’s successor or representative.” The parties, and/or Adams’s successor or representative has until September 14, 2021, to file a motion for substitution. If a motion for substitution is not made by September 14, 2021, the Court will dismiss this action. Fed. R. Civ. P. 25(a)(1).

Accordingly, **IT IS HEREBY ORDERED:**

1. Adams’s Motion for a Preliminary Injunction or Temporary Restraining Order (Doc. 7) is **DENIED**.
2. If no party or successor-in-interest has filed a motion for substitution by September 14, 2021, the Clerk of Court is directed to close this matter and enter judgment pursuant to Fed. R. Civ. P. 58.
3. The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Fed. R. App. P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith.

Dated this 21st day of June, 2021.



Brian Morris, Chief District Judge
United States District Court